

United States District Court
Western District Of Virginia

United States Of America
Plaintiff

Case No. 2:15-CR-00015-
JPJ-PMS-11

V.

Wesley David Gross

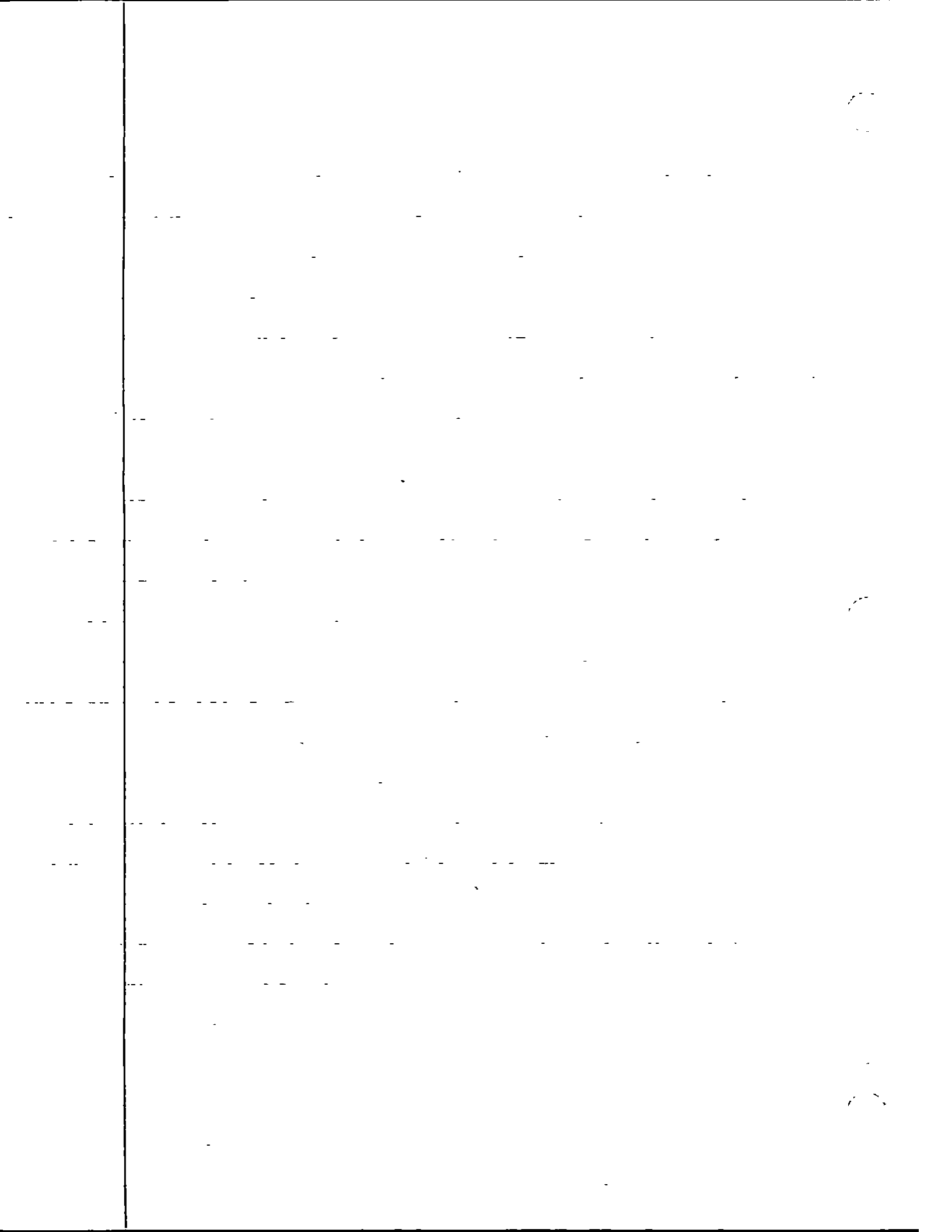
Defendent

Defendents Motion
for Compassionate
release under 18U.S.C.
3582(c)(1)(A)

Defendent, Wesley David Gross, Pro-Se pursuant to
18 U.S.C. 3582(c)(1)(A), request Compassionate
release due to the dangers of Contracting
Covid-19 in this BOP facility in addition to
the lack of medical care he is recieving
due to the pandemic.

Defendent request counsel be appointed to assist
in his motion due to the inability of defendant
to access Medical records and information on
Facility Covid-19 cases and handling of
pandemic.

Defendent is disabled with severe spinal stenosis and after being seen by spinal specialist was reffered for physical therapy that was approved to commence in Feb. 2022. If it was not deemed successful defendent was to return to spinal specialist for spinal surgery. Due to pandemic patient has had neither physical therapy nor returened to specialist as directed. Defendent is currently quarantined due to contracting Covid-19 while housed at FCI Ft. Dix. He is unable to access any records or information. He had previously Submitted a request to the Warden that was received on Nov. 29th prior to his contracting Covid. No response was made to his request which gives the Court Jurisdiction. Due to damage done by Covid-19 if he were to be re-infected the Cost and symptoms could be much worse as he suffers from lung problems as shown in documentation listed as exhibits E1, E2, and E3. Exhibit E1 Shows a CT Chest taken 5.13.2013 and compared to a scan taken 8.27.11. It list mild changes of chronic obstructive pulmonary disease (COPD) compared with scan 21 months earlier. Exhibit E2 shows mild Centribbular emphysema Exhibit E3 is a wright peak Flow test given to

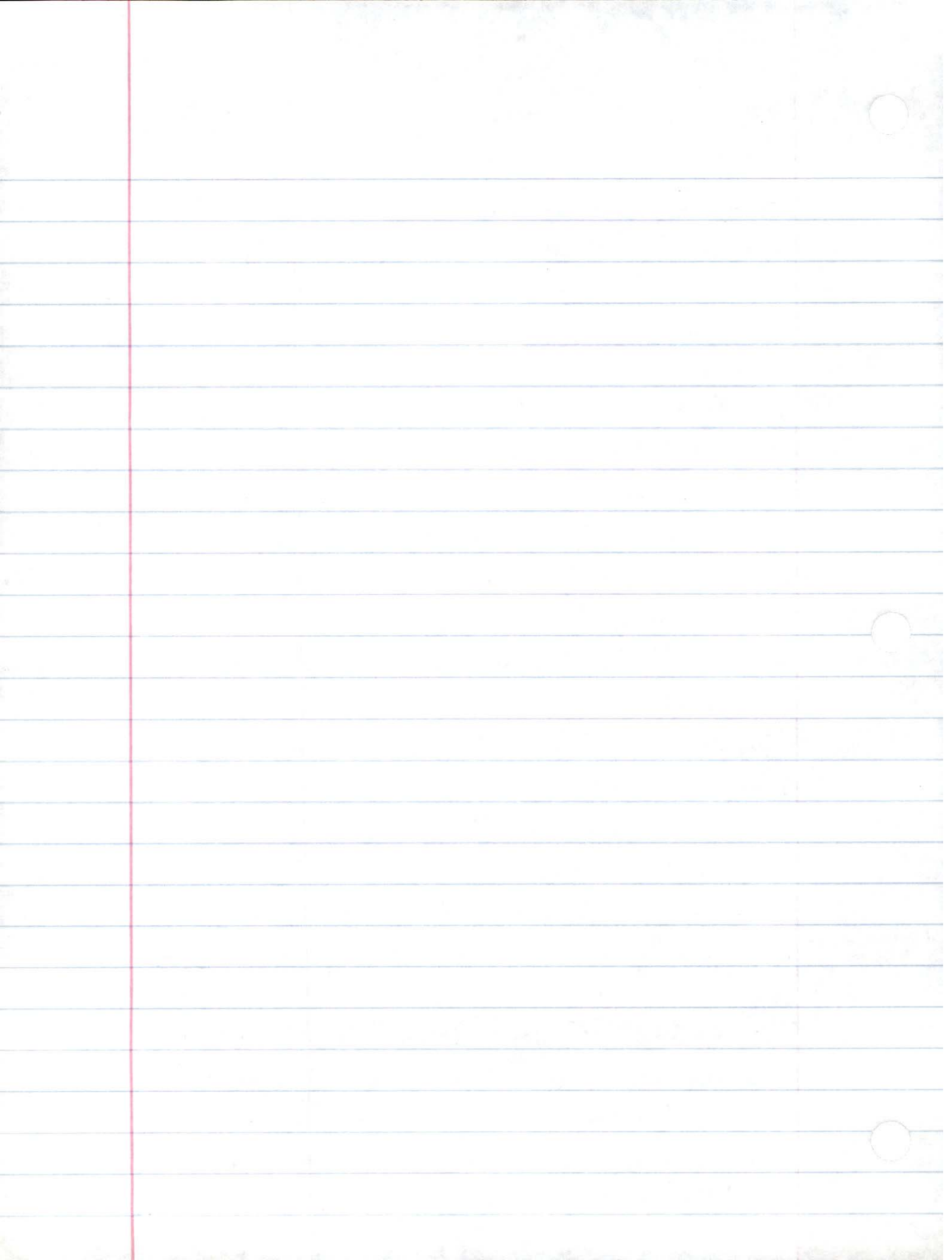


test defendant's lung capacity due to his COPD
given on 5.8.2019 at Cumberland FPC. The results
range from 410 to 540 an average of 483 which
shows function at around 50%.

E5

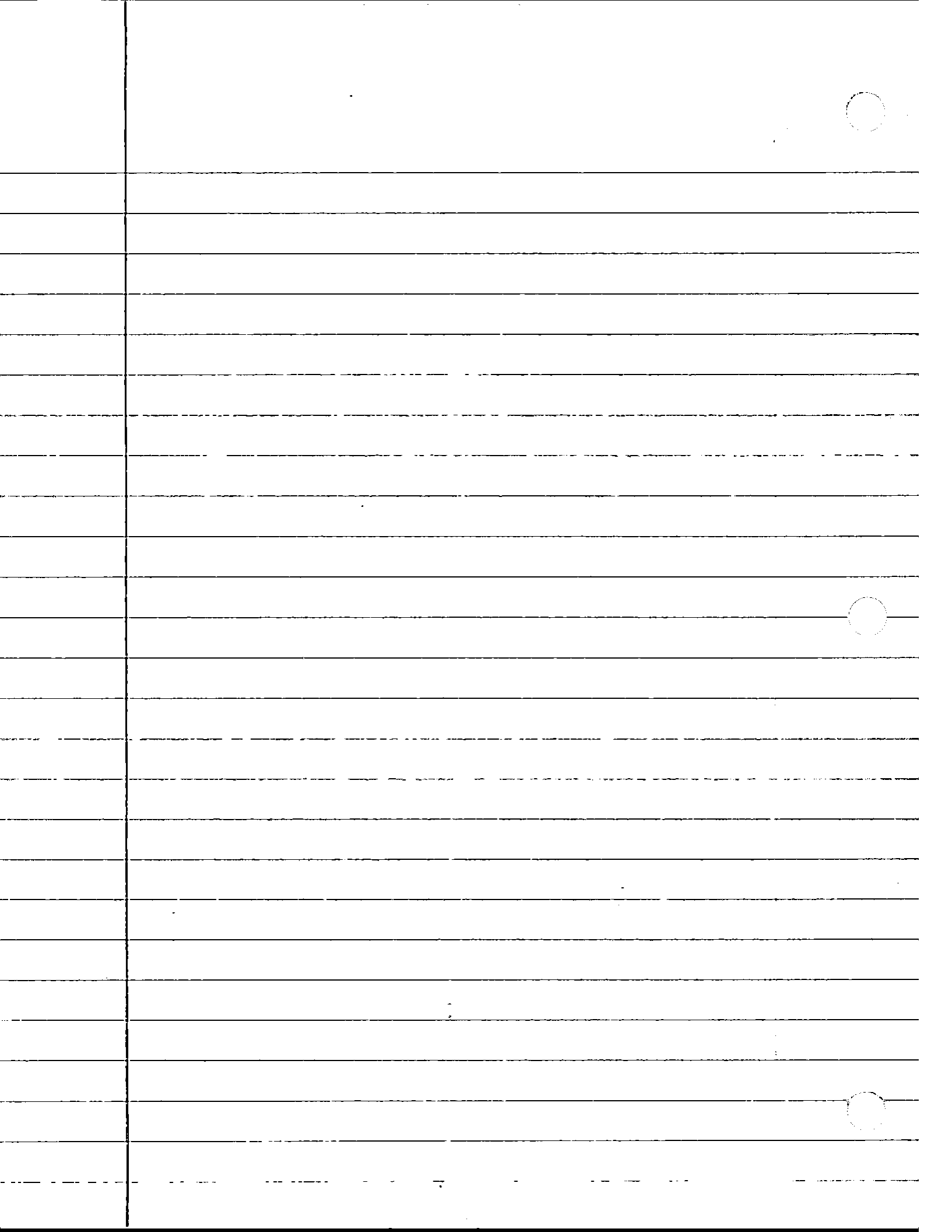
Defendant has had 1 disciplinary infraction in
the last 43 months and it was due to his
disability not allowing him to provide a urine
sample within a 2 hour time frame. E5 shows an
encounter on 9.25.17 for urinary problem difficulty
starting urination due to history of spinal stenosis
at C6-C7. Ongoing problem going back 15 years.
The defendant hasn't had an infraction in 16 months
since problem urinating. He is a model prisoner and
lives in the RDAP building while taking the Drug
program. He has completed numerous programs
including the VT computer class a 120 hour course
that teaches Microsoft office. He has taken
numerous other classes and rehabilitated himself.

His mother is 72 years old and desperately needs
him to live and assist her in her retirement.
His wife is immunocompromised and dealing
with serious health issues. Both of these women
and his 2 young children need him to return home.



and assist them in these difficult times.

Anyone who knows Mr. Gross knows the mistake he made is not a reflection of who he is or how he lived prior to late 2013. This was an abnormality in his life. He has learned from his mistake and will have plenty of time on supervised relief under the care of this court to prove it. In my May request for compassionate release, I stated if I remained incarcerated, the question is not if I would be infected but when. The Answer is Jan 4th 2021. Luckily the symptoms I experienced this time were mild. The question I pose now is if I am infected again which is not only possible but probable, unless there is a radical change, will the symptoms prove much more problematic as has been shown in many cases, Also should I be forced to suffer without medical care for my diagnosed disability and endure great pain on a daily basis because I can't get the medical care that has been prescribed. I beg his honor to grant me a reduction in sentence and home confinement with my mother as term of probation where I can get medical needs. Please allow me the ability to protect and care for



Myself and my family in the future by
granting a reduction in sentence.

Respectfully submitted
Wesley Gross

Wesley David Gross Pro. Se
Reg. No 19188-084
FCI Fort Dix
P.O. Box 2000
Joint Base MDL, NJ 08640

Dated Jan, 19 2021

E1

**Wellmont
Health System**WELLMONT HEALTH SYSTEM
SERVICE AREA
1905 American Way
Kingsport TN 3766019188-084 Pet
GROSS, WESLEY DAVID
MRN: 00824858
DOB: 9/17/1975, Sex: M
Enc. Date: 05/13/13Resulted: 05/14/13 0857, Result status: Final
result**XR Chest 1 View [4082213] (continued)**Resulting lab: EMC RAD
Narrative:
Exam Start 201305132235
Exam Stop 201305132245

HISTORY: Chest pain or 2-month. Raised red area on chest.

PORTABLE CHEST 05/13/2013 10:49 P.M.

Comparison with 08/27/2011. The lungs are free of infiltrates. Mild changes of chronic obstructive pulmonary disease. Heart and mediastinum are within normal limits.

CONCLUSION:

* Mild changes of chronic obstructive pulmonary disease.

Transcriptionist- SPEECHQ
Reading Physician- KATHLEEN A DEPONTE, M.D.
Releasing Physician- KATHLEEN A DEPONTE, M.D.
Released Date Time- 05/14/13 0857**Specimen Information**

ID	Type	Source	Collected On
6578939			05/13/13 2235

Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
9 - EMCRad	EMC RAD	Model Lab Director	5301 Tokay Blvd. Madison WI 53711	01/24/07 1652 - Present

Order**CT Angiogram Chest Without and With
Contrast [IMG206] (Order 4082214)****CT Angiogram Chest Without and With Contrast [4082214]**Electronically signed by: Interface, Rad Conversion on 05/13/13
2355

Status: Completed

Ordering user: Interface, Rad Conversion 05/13/13 2355 Authorized by: Tunga T Reddy, MD

Frequency: 05/13/13 2355 -

Result**CT Angiogram Chest Without and With
Contrast (Order 4082214)**Resulted: 05/14/13 2100, Result status: Final
result**CT Angiogram Chest Without and With Contrast [4082214]**Resulting lab: EMC RAD
Narrative:
Exam Start 201305132355
Exam Stop 201305140010

HISTORY: Chest pain in the center of the chest for several days.

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Page 3



E2

Wellmont
Health SystemWELLMONT HEALTH SYSTEM
SERVICE AREA
1905 American Way
Kingsport TN 3766019188-DS4 Pet
GROSS, WESLEY DAVID
MRN: 00824858
DOB: 9/17/1975, Sex: M
Enc. Date: 05/13/13CT Angiogram Chest Without and With Contrast [4082214]
(continued)Resulted: 05/14/13 2100, Result status: Final
result

COMPUTERIZED TOMOGRAPHIC ANGIOGRAPHY OF THE THORAX-PE PROTOCOL:

Thin section helical images were obtained following IV contrast with standard PE protocol.

* The lung parenchyma shows mild centrilobular emphysema in the lung apices. A 4 millimeter noncalcified nodule anterior segment of the right upper lobe. Repeat CT is recommended in six months to one year. No pleural or pericardial effusions.

The pulmonary arteries are well opacified and show no evidence of emboli. No aortic dissection or aneurysm. No adenopathy is seen. Residual thymus. Upper abdominal contents are unremarkable.

Esophageal wall may show mild diffuse thickening, possibly esophagitis. Correlate clinically.

CONCLUSION:

1. No evidence of pulmonary embolism, aortic dissection or aneurysm. A 4 to 5 millimeter noncalcified right upper lobe pulmonary nodule, indeterminate. Repeat CT is recommended in six months to one year.

2. Suspect esophagitis.

The study had been sent to a nighthawk service just following the exam with similar findings reported.

Transcriptionist- ELIZABETH I HOBACK, Transcriber
Reading Physician- KATHLEEN A DEPONTE, M.D.
Releasing Physician- KATHLEEN A DEPONTE, M.D.
Released Date Time- 05/14/13 2100

Specimen Information

ID	Type	Source	Collected On
6578977			05/13/13 2355

Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
9 - EMCRad	EMC RAD	Model Lab Director	5301 Tokay Blvd. Madison WI 53711	01/24/07 1652 - Present

END OF REPORT

E3

Inmate Name: GROSS, WESLEY DAVID

Date of Birth: 09/17/1975

Encounter Date: 05/08/2019 09:42

Sex: M Race: WHITE

Provider: Gera, Tom PA-C

Reg #: 19188-084

Facility: CUM

Unit: G03

OBJECTIVE:**Temperature:**

Date	Time	Fahrenheit	Celsius	Location	Provider
05/08/2019	15:46 CUM	98.8	37.1	Temporal	Gera, Tom PA-C

Pulse:

Date	Time	Rate Per Minute	Location	Rhythm	Provider
05/08/2019	15:46	81			Gera, Tom PA-C

Blood Pressure:

Date	Time	Value	Location	Position	Cuff Size	Provider
05/08/2019	15:46 CUM	107/70				Gera, Tom PA-C

Wright Peak Flow:

Date	Time	Attempt 1	Attempt 2	Attempt 3	Effort	Bronchodilator	Provider
05/08/2019	15:46 CUM	410	540	500	Fair	Without	Gera, Tom PA-C

SaO2:

Date	Time	Value(%)	Air	Provider
05/08/2019	15:46 CUM	97		Gera, Tom PA-C

Weight:

Date	Time	Lbs	Kg	Waist Circum.	Provider
05/08/2019	15:46 CUM	156.0	70.8		Gera, Tom PA-C

Exam:**General****Affect**

Yes: Cooperative

Appearance

Yes: Appears Well, Alert and Oriented x 3

Pulmonary**Observation/Inspection**

Yes: Within Normal Limits

Auscultation

Yes: Clear to Auscultation

Cardiovascular**Observation**

Yes: Within Normal Limits

Auscultation

Yes: Regular Rate and Rhythm (RRR), Normal S1 and S2

No: M/R/G

Abdomen**Inspection**

Yes: Within Normal Limits

Auscultation

Yes: Normo-Active Bowel Sounds

Palpation

84

REGIONAL ADMINISTRATIVE REMEDY APPEAL
Part B - Response

Date Filed: November 18, 2019

Remedy ID No.: 997537-R1

You appeal the Discipline Hearing Officer's (DHO) decision of October 11, 2019, for Refusing to Provide a Urine Sample for Drug Screening (Code 110). You claim you did not commit the prohibited act and the DHO's decision was based on insufficient evidence. You claim you were having medical issues which prevented you from providing an adequate urine sample. You request the incident report be expunged.

Program Statement 5270.09, Inmate Discipline Program, provides the DHO shall consider all evidence presented at the hearing. The decision of the DHO shall be based on at least some facts, and if there is conflicting evidence, it must be based on the greater weight of the evidence. The DHO considered your statement. The DHO found you committed the prohibited act based on the greater weight of the evidence, which included the reporting staff member's statement that you failed to provide a urine sample for drug screening in the allotted period of time. The DHO accurately and adequately explained to you in Section V of the DHO report the specific evidence relied on to find you committed the prohibited act.

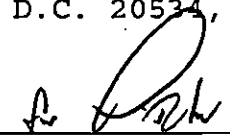
The discipline record indicates your medical records were reviewed by medical staff, and it revealed you had no medical issues which would have prevented you from providing the urine sample. Other than your self-identified medical concern, you did not provide any credible evidence at the hearing that you had any reason, medical or otherwise, for refusing to provide the urine sample for drug screening.

The required disciplinary procedures were substantially followed, the evidence supports the DHO's finding, and the sanctions were appropriate for the offense.

Your appeal is denied. If you are not satisfied with this response, you may appeal to the General Counsel, Federal Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20534, within 30 days of the date of this response.

DEC 23 2019

Date


D.J. Harmon
Regional Director
Mid-Atlantic Region

E5

Bureau of Prisons Health Services Clinical Encounter

Inmate Name: GROSS, WESLEY DAVID
Date of Birth: 09/17/1975
Encounter Date: 09/25/2017 09:10

Sex: M Race: WHITE
Provider: Hall, Ignatius PA-C

Reg #: 19188-084
Facility: PEM
Unit: D04

Mid Level Provider - Follow up Visit encounter performed at Health Services.

SUBJECTIVE:

COMPLAINT 1 **Provider:** Hall, Ignatius PA-C

Chief Complaint: Urinary Problem

Subjective: 42 y/o inmate c/o difficulty starting urination x 15 years. Inmate has h/o spinal stenosis C6-7.
9/20/2017 - PSA: 0.61.

Pain: No

OBJECTIVE:

Temperature:

Date	Time	Fahrenheit	Celsius	Location	Provider
09/25/2017	09:09 PEX	98.1	36.7	Oral	Hall, Ignatius PA-C

Pulse:

Date	Time	Rate Per Minute	Location	Rhythm	Provider
09/25/2017	09:09 PEX	98	Via Machine	Regular	Hall, Ignatius PA-C

Blood Pressure:

Date	Time	Value	Location	Position	Cuff Size	Provider
09/25/2017	09:09 PEX	126/83	Right Arm	Sitting	Adult-regular	Hall, Ignatius PA-C

Weight:

Date	Time	Lbs	Kg	Waist Circum.	Provider
09/25/2017	09:09 PEX	172.0	78.0		Hall, Ignatius PA-C

Exam:

General

Appearance

Yes: Alert and Oriented x 3

No: Appears Distressed

ASSESSMENT:

Enlarged prostate with lower urinary tract symptoms (BPH), N401 - Resolved

Unspecified abnormal findings in urine, R8290 - Current

PLAN:

Discontinued Medication Orders:

Rx#	Medication	Order Date	Prescriber Order
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E6

NOTICE TO THE INMATE POPULATION

DATE: April 11, 2020

FROM: D. Ortiz, Warden

SUBJECT: Protecting Yourself and Others

In order to maintain the health of staff and inmates, the following is expected from ALL inmates:

- Wash hands with soap and water for at least 20 seconds.
- Avoid touching your eyes, nose, and mouth with unwashed hands.
- Clean and disinfect all surfaces with the approved chemical.
- Cover your cough/sneeze with tissue, immediately throw tissue in the trash and wash your hands.
- Wear your surgical face masks! Since Social Distancing is not possible in this environment, masks will help keep you and others from spreading viruses.
- Report symptoms (coughing, sneezing, fever, fatigue, etc.) to Health Services and/or any staff.

We ALL must do our part in protecting ourselves and others from spreading COVID-19!

THERE ARE 500+ POSITIVE COVID CASES AT FCI FT
DIX AS OF 1.4.2021.

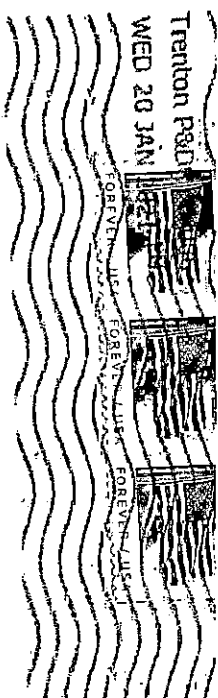
REG# 19188-084

F.C.I. Fort Dix-West Federal

P.O. Box 2000 Correctional
Institution

Joint Base MDL

New Jersey 08640



UNITED STATES District Court
OFFICE OF THE CLERK

180 WEST MAIN STREET ROOM 104

ABINGDON, VIRGINIA 24210